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Be Scared, Be Very Scared

If you are worried now about identity theft, look out for the Real ID Act, say state lawmakers

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BY BRIAN ERVIN

"They that can give up essential liberty to purchase a little temporary safety deserve neither liberty nor safety," state Sen. Randy Brogdon recently told UTW, quoting a proverb commonly attributed to Benjamin Franklin.

As the Republican from Owasso sees it, it's that unworthy willingness to exchange freedom for safety that sums up a little-known federal law that passed in recent years, which he, among others, is struggling to prevent ever taking effect--the Real ID Act.

After co-sponsoring a new state law last year directing the Oklahoma Department of Public Safety not to implement Real ID, Brogdon is carrying another piece of legislation this session that, if it passes, will tweak certain Real ID-compliant features on the Oklahoma driver's license.

Along with what he called its "blatant violation" of the Constitution, as well as its potential as an interim step toward a "Big Brother"-type New World Order, Brogdon said the Real ID Act will, if it's not stopped, "proliferate identity theft like we have never seen before."

Largely due to the senator's impassioned efforts, Oklahoma is among 39 other states that have similarly opposed the new law since it passed in 2005.

The bill initially died of neglect in the U.S. House of Representatives that year, but was resurrected when its principal author, Rep. James Sensenbrenner (R-Wis.), attached it as a rider to HR 1268--the Emergency Supplemental Appropriation for Defense, the Global War on Terror, and Tsunami Relief.

Oklahoma's Republican Congressman John Sullivan was a co-sponsor of the original bill.

Congress passed HR 1268 without discussing or debating the provisions of the Real ID Act, and President George W. Bush signed it into law in May 2005.

It repealed a law from the previous year that established, on a recommendation from the 9/11 Commission, a process by which the federal and state governments would create a uniform national standard for secure identification.

The Real ID Act bypassed that collaborative process by directly imposing a ready-made set of criteria.

Along with the usual info expected to appear on an ID card (full legal name, date of birth, address, etc.), the Act also requires state-issued IDs to include "physical security features designed to prevent tampering, counterfeiting or duplication for fraudulent purposes" which most states are likely to include in the form of biometric digital facial-recognition information, as Oklahoma was already doing prior to Real ID's passage.

Applicants for the "Real ID" will also be required to present proof of U.S. citizenship or legal residence.

Along with the ID standards, the new law also requires states "employ technology to capture digital images of identity source documents so that the images can be retained in electronic storage in a transferable format."

Among those and other mandates, the Real ID Act also requires all states to provide electronic access to other states for the information in their respective motor vehicle databases.

While the act passed into law with nary a word about it within Congress three years ago, many state legislators across the country have, in the time since, been shouting from the rooftops in opposition to it.

"It is a blatant violation of the Tenth, Fourth and First Amendments," said Brogdon, who is arguably the most vehement among that state-level resistance to the new law.

Perhaps the most obvious transgression, he explained, is of the Tenth Amendment, which states that any powers not delegated to the federal government by the Constitution, nor prohibited by it to the states, are reserved to the states or to the people.

The Constitution does not expressly grant the federal government any regulatory authority regarding the issuance of personal identification.

"They have no constitutional authority to tell us what to do with our state-issued drivers' license. None. But, here's what the Real ID (Act) has done: the federal government has told the state of Oklahoma what we have to put on our state-issued drivers' license," Brogdon fumed.

Regarding the Fourth Amendment, Brogdon said, "We have a reasonable right to believe that we are safe and secure within our persons, with our papers and personal effects, and that government has no right to any of those without probable cause and without a warrant."

But, he said the Real ID Act demands citizens provide information that should be private.

"There is nothing more personal than you. Nothing more personal than your biometric information--your DNA, your fingerprint. And government, now, has told the states, 'This is what you're going to do.' And we have complied," he said, referring to features implemented by Oklahoma's Department of Public Safety prior to the passage of the Real ID Act, which already made us compliant with the drivers' license-related portion of the law, but not with the rest (data-sharing with other states, for instance).

"Our drivers' license has finger imaging, machine-readable facial-recognition biometrics. We will soon have retina scanning," Brogdon said.

Super Patriots, Fundamentalists, Orwellian Idiots?

But, it's that very information that the architects and supporters of the Real ID Act claim is necessary to protect the nation against terrorism.

"On September 11, 2001, 19 hijackers took to the sky above our nation and killed 3,000 innocent Americans," said Congressman Sullivan in a prepared statement last year in which he praised the law he co-sponsored, as well as the states that were in compliance or working toward it.

"Among (the hijackers), they had 63 driver licenses from various states. They used those licenses as identification to board commercial flights, rent cars and carry out their mission. We cannot allow U.S. driver licenses to continue to fall into the hands of terrorists," he said.

Sullivan said the Real ID Act is "critical for combating terrorism, illegal immigration and identity theft" because of the stricter documentation requirements it mandates.

"Absolutely wrong," rebutted Brogdon.

"As a matter of fact, the federal government has sold this as something to protect your identity, but it's the exact opposite. It is 180 degrees from that," he said, contending that the Real ID Act will instead open the floodgates to new, more permanently damaging methods of identity theft.

"This will proliferate identity theft like we have never seen before," he warned.

By putting personal biometric information into a transferable, electronic format and collecting it into a database accessible by so many, anyone with sufficient computer-hacking know-how can hijack it, Brogdon explained.

"I, personally, can't do it, because I am not a computer wizard, but I assure you, people that know how to manipulate computer information and the technology--they could transmit that information somewhere else, and someone could grab it and become you right now," the lawmaker said.

If a person's wallet is stolen, they lose their photo ID, credit cards and checks and possibly have their accounts cleaned-out, but all that can be restored in time, he said.

In contrast, "once your biometric information is breached, you never get it back. Your identity will always be at risk," Brogdon continued.

The lawmaker also warned that the Real ID Act has the potential to violate Americans' First Amendment rights as well.

"Not everyone understands this part of it, but I personally believe that it violates my religious beliefs because there are, not only me, but millions of Christians around the world who believe that, in the end times, we are going to be forced to take 'the mark,'" Brogdon said, referencing the biblical book of Revelation, which states that the "Beast," or Antichrist, will "force everyone, small and great, rich and poor, free and slave, to receive a mark on his right hand or on his forehead, so that no one could buy or sell unless he had the mark."

He said many Christians understand the Real ID Act to be a precursor to that dreaded "mark" because, he explained, "we now have our federal government telling us we need to have this 'special' ID, this government-sanctioned ID, or we're not going to allow you to travel. And this is exactly what Homeland Security said last month: 'You won't be able to get on an airplane without the proper ID.' Also, you won't be able to go in and cash your check, or enter a federal building."

With the precedent for such a requirement established in the Real ID Act, Brogdon explained, it's not hard to imagine a scenario in which the government requires every citizen "to have this special card, this special mark, just to function."

For the federal government to make such an imposition, he said, violates the First Amendment requirement that "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..."

Let's Get Real, Folks

While it remains to be seen whether or not the Real ID Act is an intermediary step to the Antichrist's regime, there are plenty of other opponents to the new law from all over the political spectrum, whose share all of Brogdon's more secular concerns.

For instance, the American Civil Liberties Union created a website solely for the purpose of publicly opposing the Real ID Act: RealNightmare.org.

According to the site, the new law "would turn our state driver's license into a genuine national identity card and impose numerous new burdens on taxpayers, citizens, immigrants, and state governments--while doing nothing to protect against terrorism."

The ACLU contends that identity-based security is "not an effective way to stop terrorism" because ID documents "do not reveal anything about evil intent," and, even if they did, "determined terrorists" would just counterfeit documents or buy the real thing from corrupt officials.

Also like Brogdon, the ACLU predicts that the requirements started with the Real ID Act will expand over time into something more far-reaching and oppressive.

"The Real ID database will inevitably, over time, become the repository for more and more data on individuals, and will be drawn on for an ever-wider set of purposes," they wrote. "Its standardized machine-readable interface will drive its integration into an ever-growing network of identity checks and access control points--each of which will create new data trails that will in turn be linked to that central database, or its private-sector shadow equivalent." they wrote.

But, according to the federal Department of Homeland Security, those widespread concerns about Real ID are unfounded.

"That's simply not the case," said DHS spokeswoman Amy Kudwa about Brogdon's contention that Real ID oversteps the federal government's authority by violating the Tenth Amendment.

"That responsibility rightly belongs with states; this merely creates standards," she said.

But, doesn't it impose those standards, infringing upon states' prerogative to set those standards, if any, on their own?

"No. It's not a mandate--any state can opt out, and any individual who opts not to do it doesn't have to," Kudwa rebutted.

But, Brogdon explained that Real ID will likely be enforced by Congress withholding funding for transportation and other programs from non-compliant states, which is why Gov. Brad Henry asked DHS for an extension of the original May 11, 2008 deadline.

Henry's office did not return UTW's telephone calls to comment.

But, Kudwa said, "DHS has absolutely zero purview in highway funding."

One of the provisions of the Real ID Act, though, is that DHS has authority to issue regulations, set standards and issue grants to help with compliance in consultation with the federal Department of Transportation, which does appropriate highway funds to states.

Also, USA Today reported last month that DHS will bar airport travelers whose licenses or ID cards are issued by noncompliant states.

"We are not bluffing," Kudwa said, according to the article.

Also, Kudwa told UTW that individuals from non-compliant states won't be able to enter any federal building without an ID requirement.

However, all 50 states have since received an extension on that deadline until December 31, 2009.

Kudwa also said that, while the possibility of implementing biometrics was a part of early discussions about Real ID, the final rules set by Homeland Security make no such requirement.

She Said, He Said

The closest thing to "biometrics" required by DHS, she said, is a full facial digital photograph.

"But, that's biometrics!" countered Brogdon upon hearing of Kudwa's statement.

"It's a machine-readable photograph that enables a computer to map your facial features," he said.

Oklahoma currently requires a machine-readable digital photograph for drivers' licenses and state-issued IDs, but Brogdon's SB 1413, if it passes, will lower the required resolution on those photographs so that they won't be machine-readable.

Also, the bill would make the current fingerprinting requirement optional, and prevent the Department of Public Safety from storing drivers' social security numbers in its database.

The bill passed the House of Representatives last week, but with its title stricken, which effectively neuters the bill until the title is restored.

If or when the title is restored, the bill's next stop is the Governor's desk.

Since Congressman Sullivan's statements about Real ID were from last year, UTW contacted his office in the off chance that he had a change in heart.

He said, through a spokesperson, "I have heard from many of my constituents regarding Real ID in recent months and have passed their concerns onto the U.S. Department of Homeland Security."

With the widespread opposition to Real ID from most states in view, Brogdon said, "Homeland Security, I think, has realized that they now have a tiger by the tail."